HB 20-1154

Legislative Council Staff
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FISCAL NOTE

Drafting Number: LLS 20-0093
Prime Sponsors: Rep. Kraft-Tharp; Van Winkle
Sen. Marble; Bridges
Date: February 10, 2020
Bill Status: House Business
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Bill Topic: **WORKERS' COMPENSATION**

Summary of Fiscal Impact:

- ☒ State Revenue
- ☒ State Expenditure
- ☐ State Transfer
- ☒ TABOR Refund
- ☐ Local Government
- ☒ Statutory Public Entity

The bill makes various changes and clarifications to the Workers' Compensation Act of Colorado. The bill may increase state revenue and will increase state expenditures beginning in FY 2020-21.

Appropriation Summary: In FY 2020-21, the bill requires an appropriation of $171,000 to the Department of Personnel and Administration.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 20-1154

		FY 2020-21	FY 2021-22
Revenue		-	-
Expenditures	General Funds	$171,000	-
	Various Cash Funds*	-	$171,000
	Total	**$171,000**	**$171,000**
Transfers		-	-
TABOR Refund		-	-

* In out years, costs in the Department of Personnel and Administration will be paid using reappropriated funds from various state agencies as actual claims data becomes available.

Summary of Legislation

The bill makes various changes and clarifications to the Workers' Compensation Act of Colorado, including:

- clarifies when benefits and penalties payable to an injured worker are deemed paid;
- adds guardian and conservator services in the list of medical aid that an employer is required to provide to an employee incapacitated as a result of a work-related injury or occupational disease;
- requires claimants to submit for mileage reimbursement related to obtaining medical care within 120 days of incurring the expense, and requires the employer or insurer to pay or dispute the mileage within 30 days of submission;
- clarifies that offsets to disability benefits granted by the federal "Old-Age, Survivors, and Disability Insurance Amendments of 1965" only apply if the payments were not already being received by the employee at the time of the work-related injury;
- prohibits the reduction of an employee's temporary disability or medical benefits based on apportionment, limits apportionment of permanent impairment to specific situations, and declares that the employer or insurer bears the burden of proof at an apportionment hearing regarding a reduction in permanent impairment or permanent total disability benefits;
- makes various changes to the process through which an employer or insurer may request an independent medical examiner in determining maximum medical impairment;
- lowers the whole person impairment rating threshold for combined temporary disability and permanent partial disability payment caps;
- prohibits an employer or insurer from withdrawing an admission of liability two years after the date of admission, except in cases of fraud;
- prohibits the director of the Division of Workers' Compensation or an administrative law judge from determining issues of compensability or liability unless specific benefits or penalties are awarded or denied at the same time;
- clarifies the scope of authority of prehearing administrative law judges;
- increases the threshold amount that an injured worker must earn in order for permanent total disability payments to end, and allows for annual adjustment to the threshold beginning in 2021; and
- clarifies the types of orders from the Division of Workers' Compensation or administrative law judge that are subject to review or appeal.

Background

The Risk Management Program in the Department of Personnel and Administration (DPA) protects the State's human resource and property assets through the administration of liability, property, and workers' compensation coverage for state agencies. The workers' compensation program is used to pay workers' compensation benefits to state employees. The State is self-insured for workers' compensation claims. Annually, the Risk Management program's actuary projects the State's total workers' compensation needs by analyzing prior year's losses. Using this same data, the actuary then estimates the allocation for each agency as a percent of the total (including each institution of Higher Education).

State Revenue

Beginning in FY 2020-21, state revenue to the trial courts in the Judicial Department may increase by a minimal amount due to additional conservator and guardianship filings.

State Expenditures

Beginning in FY 2020-21, the bill increases expenditures in the DPA by $171,000 for increased benefit payments and costs. In the first year, this cost is assumed to be paid from the General Fund; in subsequent years, various sources of reappropriated funds from state agencies will be used and calculated based on actual claims data.

Department of Personnel and Administration. Under current law, a claimant whose impairment rating is 25 percent or lower faces a cap on their combined temporary disability and permanent partial disability payments of $75,000, and a claimant with an impairment rating greater than 25 percent is subject to a cap of $150,000. The bill lowers the impairment rating threshold to 19 percent, which will increase benefit payouts. Assuming the DPA workers' compensation caseload remains similar to FY 2019-20, the bill will increase cash fund expenditures by $155,000 beginning in FY 2020-21.

The bill also makes changes to the appeal process for dissatisfied parties in a workers' compensation case. These changes will increase cash fund expenditures in the DPA by $16,000 for additional transcription and legal services.

Additionally, the Office of Administrative Courts in the DPA will have an increase in workload if the number of workers' compensation hearings increase. A small increase in caseload can be accomplished within existing resources.

Judicial Department. The bill may increase workload for trial courts due to the bill's new requirement that employers or the employer's insurer must provide guardian or conservator services. This workload increase can be accomplished within existing appropriations.

TABOR refunds. The bill may increase state General Fund obligations for TABOR refunds by a minimal amount in FY 2020-21 and FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

Statutory Public Entity

This bill will increase the benefits paid to injured workers by Pinnacol Assurance. Any increase in benefit payments will be offset through premiums charged to employers.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2020-21, this bill requires a general fund appropriation of $171,000 to the Department of Personnel Services.

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State and Local Government Contacts

Information Technology	Judicial	Labor
Personnel	Pinnacol Assurance	